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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,565	10/17/2003	Leonid Shendelman	SHENDELMAN	2399
156	7590	02/02/2006	EXAMINER	
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C. 489 FIFTH AVENUE NEW YORK, NY 10017			CASTELLANO, STEPHEN J	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,565

Applicant(s)

SHENDELMAN, LEONID

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21 and 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Wightman et al. (Wightman).

Wightman discloses a serving platter for a sponge comprising a plate (cup 11, 15 and/or strip 12, 17) and a strap (bands 14, 16, 18 and strip 12)(see Fig. 1-4, closed loops not Fig. 5). Re claims 23-25, the staple or staples 13 are capable of holding eating accessories such as fork, spoon, knife, tooth pick, napkin. Re claim 26, the closed loops formed by elastic bands 14, 16, 18 are stretchable. Re claim 27, the strap includes the non-stretchable material of strip 12. Re claim 28, Fig. 2-4 disclose flat cross sections.

Claims 21, 27 and 28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Norris.

Claims 21, 23, 27 and 28 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ercolani.

Claims 21, 22, 27 and 28 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kao and Davis.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ercolani in view of Gibbar.

Ercolani discloses the invention except for the set of staggered projections to bind a channel. Gibbar teaches a serving platter with a cup holder as shown in fig. 4 and 5, the holder incorporates upward projections in a staggered arrangement bounding a channel in which a utensil (cup) is clamped. It would have been obvious to modify the cup holder of Ercolani to be the clamping type holder of Gibbar to more securely retain the cup to prevent spills.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wightman in view of Siegal.

Wightman discloses the invention except for the circular cross section of the strap. Siegal teaches a wrist strap of circular cross section. It would have been obvious to modify the cross section of the strap to be circular as there is no criticality evidenced in applicant's disclosure and the circular cross section allows the widest dimension of the strap to be smaller for a strap of similar strength.

Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao or Davis in view of Laird.

Re claims 30 and 31, Kao and Davis disclose adjustable straps but do not disclose the T-shaped ends. Official notice is taken that T-shaped attaching ends of a strap are well known. It would have been obvious as a matter of design choice to substitute the equivalent T-shaped ends

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for the attachment mechanisms of Kao and Davis as no criticality has been assigned to a T-shaped design.

Re claim 32, Kao and Davis disclose adjustable straps but do not disclose the serrated end. Laird teaches a serrated end. It would have been obvious as a matter of design choice to substitute the equivalent serrated end for the attachment mechanisms of Kao and Davis as no criticality has been assigned to a serrated design other than its adjustability which Kao and Davis both disclose.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc